

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

SOHAIL KHAN,

Defendant.

09-cr-1067 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.:

Before the Court is the motion of defendant Sohail Khan seeking dismissal of the two-count indictment, which was filed under seal on November 3, 2009 and unsealed following Khan's arrest at Chicago's O'Hare International Airport on June 3, 2021. He argues that in view of the period of eleven years and seven months that elapsed between his indictment and arrest, the Government's continued prosecution of this case would violate his right to a speedy trial under the Sixth Amendment to the United States Constitution. The Court has carefully considered the parties' briefs, declarations, and presentations at argument, and the Court assumes the parties' familiarity with this case's facts and procedural history for the purposes of this short order.

As discussed at argument, there are two disputed factual issues that both parties and the Court agree may be material to adjudicating the instant motion: (i) whether Khan left the United States for Pakistan in September 2004 to flee potential criminal charges and/or whether he thereafter became aware of the charges and remained in

Pakistan to avoid those charges; and (ii) whether it would have been futile for the Government to have sought Khan's extradition from Pakistan. At argument, the Government asserted its position that the motion should be denied even if the Court assumes arguendo that these disputes would be resolved in the defendant's favor. Upon consideration, however, the Court is of the view that, if both those factual disputes were resolved in defendant's favor, it would likely grant the motion, but if they were resolved in the Government's favor, it would likely deny the motion.

The Court therefore sees no alternative but to hold an evidentiary hearing on the disputed issues. Counsel are therefore directed to jointly call Chambers no later than this Wednesday, October 20, 2021 at 5 p.m. to schedule the evidentiary hearing.

SO ORDERED.

New York, NY  
October 19, 2021

  
JED S. RAKOFF, U.S.D.J.